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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,032	04/09/2001	Frank Venegas JR.	IDS-14402/14	8394

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John G. Posa  
Gifford, Krass, Groh  
Suite 400  
280 N. Old Woodward Ave.  
Birmingham, MI 48009

EXAMINER

SCHULTERBRANDT, KOFI A

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/829,032	VENEGAS, FRANK
	Examiner Kofi A. Schulterbrandt	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 April 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) \_\_\_\_\_ is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-10 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: *See Continuation Sheet*.

Continuation of Attachment(s) 6). Other: Red marked-up copies of U.S. Pat. No. 4,507,887 (Figures 1-3 and 7-17) and U.S. Pat. No. 5,484,145 (Figures 1, 4 and 5).

## **DETAILED ACTION**

This first Office Action is in response to Applicant's originally filed Application received on April 9, 2001.

### ***Information Disclosure Statement***

The information disclosure statements (IDS) submitted on April 9, 2001 and on August 23, 2001 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the spring mounting of the fastener of claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 2-4 are objected to because of the following informalities: in claim 2, line 2, "screw-ably" should probably be --screwably--. Appropriate correction or clarification is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, line 2, recites an apparatus "of the type having an elongated post". Claim 1 goes on to recite the spaced apart through holes of the post aligned with collar apertures. It is unclear whether applicant intends to claim the combination of the base and the post or the subcombination of the base. The claim rejections below were to the subcombination of the base. In claim 6, line 2, the phrase "its periphery" is unclear. It is unclear whether "its" refers to the device generally, the axle or some other feature of claim 1. In claim 10, the spring mounted fastener is not shown in the drawings. The structure of the invention being claimed is therefore uncertain. Correction or clarification is required on the above issues.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Dolan (3,841,631). Dolan teaches each feature of the claimed invention as shown in the attached red marked-up copy of Dolan's Figures 1-5.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Seely (4,507,887). Seely teaches each feature of the claimed invention as shown in the attached red marked-up copy of Seely's Figures 1-3.

Claims 1, 5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Shriver (5,484,145). Shriver teaches each feature of the claimed invention as shown in the attached red marked-up copy of Shriver's Figures 1, 4 and 5.

Claims 1, 5, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Lydall (4,034,505). Lydall teaches each feature of the claimed invention as shown in the attached red marked-up copy of Lydall's Figures 1-5.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seely (4,507,887), in view of Werner (4,498,657). Seeley teaches, substantially, each feature of the claimed invention including fasteners for holding Seely's collar to Seely's base (See Seely's red marked-up Figure 1 discussed above). Seely does not teach

screw type fastener mechanism that facilitates an engagement relationship between the collar portion and the top surface of the base, a grasping handle or a fillable base.

Werner, however, teaches screw type fasteners for fastening a sign to a post, grasping handles (shown in the attached red marked-up copy of Werner's Figures 8-17) and a hollow structural element (See Werner's col. 5, ln. 43). It would have been obvious to one of ordinary skill in the art at the time of invention to have made Seely's fasteners to be screws or bolts as taught by Werner in order to facilitate easy assembly and disassembly. It would have been obvious to one of ordinary skill in the art at the time of invention to have added a grasping handle as taught by Werner in order to better grasp and maneuver the base. Furthermore, it would have been obvious to one of ordinary skill in the art at the time of invention to have formed Seely's legs from hollow structural elements as taught by Werner in order to make the base strong and light.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shriver (5,484,145), in view of Cripe (5,795,250). Shriver teaches each feature of the claimed invention as discussed above except for a pair of wheels on an axle adjacent and within a portion of its periphery. Cripe, however, teaches wheels on an axle adjacent and within a portion of Cripe's periphery. It would have been obvious to one of ordinary skill in the art at the time of invention to have modified Shriver's aid to include Cripe's wheels within Shriver's periphery in order to more easily relocate Shriver's device and store Shriver's device more easily.

***Prior Pertinent Art***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. '643 to Garfieri; '162 to Rice; '518 to Grawe; '473 to Seely; and '499 to Seely. The foregoing references each teach supports capable of holding a sign.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kofi A. Schulterbrandt whose telephone number is (703) 306-0096. The examiner can normally be reached on Monday - Friday, 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

  
LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER

  
Kofi Schulterbrandt  
August 12, 2003